


## COUNCIL POLICY

Election Period	<b>Adopted By Council:</b>	23/05/2012	
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	<b>Directorate:</b>	CEO Office	
	<b>Responsible Officer:</b>	Chief Executive Officer	

### CONTEXT

The Local Government Act 2020 ('the Act') provides that between the close of nominations on nomination day and a municipal general election all Victorian councils enter an election period (sometimes called a 'caretaker period'). At this time certain legislative prohibitions apply to the general functions and powers of councils including that councils are prohibited from publishing or distributing electoral matter. The Act also mandates that every council must prepare, adopt and maintain an election period policy.

The *Local Government Act 2020* states:

#### **69 Election period policy**

- (1) *A Council must include an election period policy in its Governance Rules.*
- (2) *An election period policy must prohibit any Council decision during the election period for a general election that—*
  - (a) *relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or*
  - (b) *commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or*
  - (c) *the Council considers could be reasonably deferred until the next Council is in place; or*
  - (d) *the Council considers should not be made during an election period.*
- (3) *An election period policy must prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.*
- (4) *A Council decision made in contravention of subsection (2)(a) or (b) is invalid.*
- (5) *Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of subsection (4) is entitled to compensation from the Council for that loss or damage.*

The 2024 council Election Period commences at 12 noon on Tuesday 17 September 2024 and concludes at 6.00pm on Saturday 26 October 2024.

## **PURPOSE**

The purpose of this policy is to ensure that the ordinary business of the Council will continue throughout the Election Period in a responsible and transparent manner and in accordance with statutory requirements. The intention of this policy is to assure the community that Council and Councillors will not use public resources in election campaigning.

This Policy has also been developed in order to ensure that the general elections are conducted in a manner that is fair and equitable to all candidates, and are publicly perceived as such.

The principles contained within this Policy will ensure transparent and accountable governance practices are in place in the lead up to and throughout the Election Period.

## **DEFINITIONS**

As defined in the *Local Government Act 2020* the following definitions apply:

<b>election day</b>	means the day of an election determined under section 257 or 260
<b>election period</b>	(a) starts at the time that nominations close on nomination day; and (b) ends at 6 pm on election day
<b>electoral material</b>	means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper that is only announcing the holding of a meeting

For the purpose of this policy, the following other definitions apply:

<b>major policy decision</b>	means any decision: (a) relating to the appointment or remuneration of a Chief Executive Officer but not to the appointment or remuneration of an acting Chief Executive Officer; (b) committing the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and the service rates and charges in the preceding financial year.
<b>publish</b>	means publish by any means including by publication on the internet
<b>social media</b>	means online communication channels dedicated to community-based input, interaction, content-sharing and collaboration and includes, but is not limited to, social blogs, wiki pages, Facebook, X (previously Twitter), YouTube, Flickr, LinkedIn, Pinterest and instant messaging.

## **POLICY**

### **1. Council Decisions**

In accordance with the *Local Government Act 2020* Council is prohibited from making certain decisions as per section 69 of the Act including ‘major policy decisions’ during the Election Period.

It shall be the responsibility of the Chief Executive Officer to determine if a matter is a major policy decision or a decision that falls within the prohibitions outlined in section 69(2) of the Local Government Act 2020. Where possible, the Chief Executive Officer will ensure that such matters are scheduled for Council prior to the commencement of the Election Period or, alternatively, scheduled for determination by the incoming Council.

Council must not make any decisions that it considers should not be made during an Election Period.

### **2. Council Reports**

During the Election Period, the Chief Executive Officer will ensure that a “Caretaker Statement” is included in every report submitted to the Council or to a delegated committee of Council for a decision.

The “Caretaker Statement” will specify one or more of the following:

- The recommended decision is not a “major policy decision” or otherwise in contravention of section 69 of the Act within the meaning of this Election Period Policy.

During the Election Period, the Council will not make a decision on any matter or report that does not include one of these Caretaker Statements.

### **3. Councillors – Use of position**

Councillors must not misuse, or inappropriately make use of, their position to gain an advantage for themselves or another person, or to cause detriment to Council or another person at any time, including during the Election Period. Without limitation, if a Councillor chooses to stand as a candidate for the election, the Councillor must:

- a) continue to act in accordance with their obligations under the Act and relevant codes of conduct;
- b) take care to maintain the distinction between their position as a current Councillor and their role as a candidate for the election;
- c) avoid any conflicts of interest between their position as a current Councillor and their role as a candidate for the election; and
- d) maintain appropriate relationships with Council Officers, including by observing all relevant communications protocols between Councillors and Council Officers.

### **4. Use of the Councillor Title**

Councillors may use their title “Councillor” in their election material, as they continue to hold office during the Election Period. While a Councillor can refer to themselves as Councillor in communications it must be made clear that it is a communication of a candidate and not a position of Council.

## **5. Use of Council Resources**

It is important that all Councillors have access to the resources necessary to fulfil their elected roles during the Election Period.

In order to ensure the proper use of Council resources during the Election Period, however, the following will apply:

- Council resources, including offices, support staff, hospitality, equipment, email, mobile phones and stationery will be used exclusively for normal Council business and will not be used in connection with election campaigning. Council staff are required to exercise appropriate discretion in that regard. In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice will be sought from the relevant Manager or the Chief Executive Officer.
- Reimbursements of Councillors' out-of-pocket expenses in the Election Period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign.
- Equipment provided to Councillors for the purpose of conducting normal Council business, such as mobile phones, laptops, IT tablets, land lines and internet connections, will not be used for campaigning purposes.
- Any email account provided by Council to a Councillor to assist in representing the local community and undertaking normal day-to-day Councillor duties must not be used in electioneering and campaigning.
- Council logos, letterheads, or other Borough of Queenscliffe branding must not be used for, or linked in any way to, a candidate's election campaign.
- Council staff, including support staff for the Mayor and Councillors, must not be asked to undertake any tasks connected directly or indirectly with a candidate's election campaign.
- No local community forums utilising Council resources will be held by Councillors during the Election Period.
- No election material or active campaigning is to be conducted at Council sponsored festivals, events or displays.

In the course of employment Council staff must not:-

- a) undertake an activity that may affect voting in the election; or
- b) authorise, use or allocate a Council resource for any purpose that may influence voting in the election

## **6. Information**

The Council recognises that all election candidates have rights to information from the Council administration. However, it is important that sitting Councillors continue to receive information that is necessary to fulfil their elected roles. Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns, and

transparency will be observed and practised in the provision of all information and advice during the Election Period.

Information and briefing material prepared by staff for Councillors during the Election Period will relate only to factual matters or to existing Council policies and services. Such information will not relate to new policy development, new projects or matters that are the subject of public or election debate or that might be perceived to be connected with a candidate's election campaign.

All requests for information are to be directed to the Chief Executive Officer or in their absence the HR and Governance Coordinator.

The office of the Chief Executive will maintain an Information Request Register during the Election Period. This Register will be a public document that records all requests for information by Councillors and candidates, and the responses given to those requests. Only information that can be reasonably accessed will be released.

As much as practicably possible, access to information held by Council will be made equally available to candidates during the election, subject to applicable legislative requirements.

## **7. Publicity**

It is recognised that Council publicity is intended to promote normal services or operations of the Council. Council publicity will not be used in any way that might be construed as intended to influence the outcome of the Council election.

During the Election Period, no Council employee may make any public statement that could be construed as influencing the election. This does not include statements of clarification that are approved by the Chief Executive Officer.

During the Election Period, publicity campaigns, other than for the purpose of conducting the election, will be avoided. Where a publicity campaign is deemed necessary for a Council service or operation, it must be approved by the Chief Executive Officer. In any event Council publicity during the Election Period will be restricted to promoting the normal services or operations of the Council.

During the Election Period, the Chief Executive Officer (or their delegate) shall be Council's spokesperson. Any requests for media advice or assistance from Councillors during the Election Period must be decided by the Chief Executive Officer (or their delegate).

Any requests for media advice or assistance from Councillors during the Election Period will be channelled through the Chief Executive Officer. In any event, no media advice and/or assistance or media releases will be provided in relation to election campaign matters, or in regard to publicity that involves specific Councillors.

Councillors will not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention in support of matters that could be construed as relating to an election campaign.

Councillors who are standing for re-election must ensure that their own campaign material (to be prepared at their expense) does not bear any reference or inference that such material is from Council, or is supported or endorsed by Council and must not bear any Council identification such as logos, design schemes or colour schemes.

Councillor participation in festivals and events should promote Council as a whole and not be used or be construed to gain advantage in support of an election campaign.

Information published on Council's website with regard to sitting Councillors will be limited to statements of facts about their roles and responsibilities as a Councillor. For example, contact details, roles and responsibilities as assigned by Council resolution.

Any publication on social media sites during the Election Period must be certified by the Chief Executive Officer. Staff responsible for administering Council social media sites will be required to monitor their respective sites during the Election Period and use moderation features to ensure no electoral matter is posted.

## **8. Assistance to Candidates**

All candidates for the Council election will be treated equally.

Any assistance and advice to be provided to candidates as part of the conduct of the Council election will be provided equally to all candidates. The types of assistance that are available will be documented and communicated to all candidates in advance.

All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer.

## **9. Communicating the Policy**

It shall be the responsibility of the Chief Executive Officer to inform Council staff, contractors, volunteers and election candidates of the adopted Election Period Policy prior to the Election Period.

## **10. Public Consultation**

No public consultation will be undertaken during the Election Period unless prior approval is obtained from the Chief Executive Officer.

Public consultation in this part means a process involving an invitation and opportunity for the public to comment or provide an opinion on a Council matter, proposed action or proposed policy.

The Chief Executive Officer will consider the following factors when deciding whether to approve public consultation:

- a) whether the consultation could reasonably take place after the election;
- b) whether conducting the consultation could affect voting in the election;
- c) whether risks of influencing the election can be reduced or avoided;
- d) whether special circumstances exist which make the consultation necessary during the Election Period; and
- e) the financial and other repercussions of postponing the consultation until after the election.

Where public consultation during an Election Period is approved, the results of that consultation will not be published or disclosed until after the Election Period except where approved by the Chief Executive Officer.

Public consultations in this part do not include consultations required by any Act or regulation which are conducted in the normal course of Council operations, such as that following the publication of planning applications as required under the Planning and Environment Act 1987 (Vic).

## **11. Council Events**

Council organised events and functions held during the Election Period will be reduced to only those essential to the operation of the Council or which are held to mark national celebrations.

Publications promoting any Council events or functions held during the Election Period must comply with this Policy.

Councillors are able to continue to attend meetings, events and functions in the course of performing their duties as a Councillor. Speeches at Council functions should not contain any express or implied reference to Electoral Matters.

Councillors are able to attend events or functions conducted by external bodies, but must be mindful of the obligations in the Act to avoid misuse of their position.

### **SCOPE OF POLICY**

This Policy applies to all Councillors and Council Staff (including Council volunteers) during the Election Period which starts at noon on the last day on which nominations for the election can be received by the Election Manager and concludes on the Election Day.

### **CONTINUOUS IMPROVEMENT**

This policy will be reviewed on a continuous basis, but as a minimum it will be reviewed and, if required, amended no later than 6 months before the commencement of each general election.

### **OTHER REFERENCES**

*Local Government Act 2020*

END